

104TH CONGRESS
1ST SESSION

H. R. 322

Entitled the “State Correctional Litigation Reform Act of 1995”.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. MCINTOSH introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

Entitled the “State Correctional Litigation Reform Act of
1995”.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—STATE CORRECTIONAL**
4 **LITIGATION REFORM ACT OF 1995**

5 **SECTION 101. SHORT TITLE.**

6 This Act may be cited as the “Law Abiding Citizens
7 Safety Act of 1995”.

8 **SEC. 102. FINDINGS AND PURPOSES.**

9 (A) FINDINGS.—Congress finds that:

10 (1) Among the most important purposes of the
11 criminal law are: the need for criminal punishments

1 to reflect the seriousness of the offense, to promote
2 respect for the law, to provide just punishment for
3 the offense, to afford adequate deterrence to criminal
4 conduct, and to protect the public from further
5 crimes.

6 (2) “The Constitution does not mandate comfortable
7 prison conditions; only those deprivations
8 denying the minimal civilized measure of life’s necessities
9 are sufficiently grave to form the basis of an
10 Eighth Amendment violation”. *Wilson v. Seiter*, 115
11 L. Ed. 2d 271 (1991), citing *Rhodes v. Chapman*,
12 452 U.S. 337 (1981).

13 (3) An inmate should not be able to successfully
14 challenge conditions of confinement of an institution
15 unless he establishes both that the condition constitutes
16 the unnecessary and wanton infliction of
17 pain such that he is deprived the minimum civilized
18 measure of life’s necessities and that prison officials
19 are deliberately indifferent to his plight. *Wilson v.*
20 *Seiter*, 115 L. Ed. 2d 271 (1991), *Helling et al. v.*
21 *McKinney* (United States Supreme Court, No. 91–
22 1958, June 18, 1993).

23 (4) As Judge Posner recognized, “ * * * the
24 infliction of disutility * * * is one of the objectives
25 of criminal punishment; only if the only objective of

1 punishment were incapacitation could it be argued
2 that living conditions should be as comfortable in
3 prison as outside.” Davenport v. DeRobertis, 844
4 F.2d 1310, 1313 (7th Cir. section 1988).

5 (5) Since 1960, the average total State correc-
6 tional expenditures per inmate have increased almost
7 twice as fast as median income and more than twice
8 as fast as the poverty threshold.

9 (6) Expenditures on prisons in excess of levels
10 necessary to meet constitutionally mandated condi-
11 tions of confinement increase the cost of building
12 and administering institutions, thereby diverting
13 funds which could be used to expand current prison
14 capacity throughout the country. Additional prison
15 beds are desperately needed to stop the early release
16 of repeat and violent offenders due to insufficient
17 prison capacity.

18 (7) Public funds that could go to assist the law-
19 abiding poor are being expended to provide facilities
20 and services for inmates at a level exceeding the
21 minimum standard of living for the law-abiding poor
22 and exceeding the conditions mandated by the Con-
23 stitution.

24 (8) There is a need for the Congress, on behalf
25 of the people, to express and codify a national stand-

1 ard of minimum decency for prison conditions. In-
2 mates should not be entitled, by virtue of their im-
3 prisonment, to live better than law-abiding persons
4 living at the poverty guideline level of income as de-
5 termined by the Department of Health and Human
6 Services.

7 (9) Federal courts have been besieged by frivo-
8 lous litigation brought by inmates incarcerated in in-
9 stitutions. Lacking a legislative expression of the
10 contemporary standards of decency relating to pris-
11 on conditions, Federal courts have become unduly
12 involved in the micromanagement of correctional fa-
13 cilities, a role which the Supreme Court recognizes
14 that courts are ill equipped to handle and which is
15 better left to the expertise of prison administrators,
16 Procunier v. Martinez, 416 U.S. 396. 404–405
17 (1974).

18 (10) Courts, upon a finding that the conditions
19 of an institution are unconstitutional, have ignored
20 the constitutional limitations on the judiciary and
21 the principles of federalism by issuing injunctions
22 which mandate changes in State prison systems
23 which far exceed what the constitution requires.
24 Pugh v. Locke, 406 F. Supp. 318 (M.D. Ala. 1976)
25 (Injunction with detailed instructions for administer-

1 ing the prison, mandating that each inmate have 60
2 square feet of living space, visitation privileges at
3 least once a week in a comfortable visitation area, a
4 meaningful job and the opportunity to participate in
5 basic educational programs and vocational training
6 designed to teach a marketable skill; that the admin-
7 istrators hire a food service supervisor with a mini-
8 mum of a bachelor's degree in dietetics, a nutrition
9 consultant who is a registered dietitian and a full-
10 time recreational director with at least a bachelor's
11 degree in recreational or physical training); *Jones v.*
12 *Wittenburg*, 330 F. Supp. 707 (N.D. Ohio 1971)
13 (Injunction which included mandatory salary in-
14 creases for jailers who completed community college
15 job related courses at county expense, the establish-
16 ment of work or study release programs for inmates
17 serving sentences, limitation on Sheriff's ability to
18 prohibit the possession of certain reading materials
19 by inmates unless they clearly came within the legal
20 definition of pornography, and a requirement that
21 the jail be painted with light-colored, washable
22 enamel paint).

23 (11) Sound principles of federalism require that
24 before a condition, policy, or practice at an institu-
25 tion be declared unconstitutional, that a State ex-

1 haustion requirement be respected, that more than
2 one sitting Federal judge ought to be required to
3 hear the claim presented, and that no prison condi-
4 tion should be enjoined before the State has a fair
5 opportunity to take remedial action.

6 (12) The Attorney General possesses the exper-
7 tise necessary to effectively litigate systematic, insti-
8 tution-wide abuses on behalf of a class of inmates
9 and eliminate repetitive and often frivolous in
10 propria persona suits that unduly burden the court
11 system.

12 (13) There is a need to ensure that allegations
13 regarding unconstitutional conditions of confinement
14 are made with particularity so that lawsuits may be
15 more specifically framed and particularly pled to en-
16 sure that institutional administrators are given no-
17 tice of the nature and extent of the condition alleged
18 to be unconstitutional.

19 (14) The efforts by the Department of Justice
20 to ensure that constitutionally mandated standards
21 for prison conditions are efficiently and effectively
22 enforced have been previously recognized in the en-
23 actment of section 1997 of title 42, United States
24 Code, et seq.

25 (b) PURPOSES.—The purposes of this Act are:

1 (1) To articulate an objective national standard
2 for measuring the minimum decency of prison condi-
3 tions.

4 (2) To ensure that criminal punishments reflect
5 the seriousness of the offense, promote respect for
6 the law, provide just punishment, afford adequate
7 deterrence, and protect the public from further
8 crimes by requiring, inter alia, that inmates do not
9 live better than law-abiding persons living at the
10 poverty level.

11 (3) To ensure that state governments are re-
12 quired to spend only that amount necessary to
13 achieve the minimum standard for conditions of con-
14 finement mandated by the Constitution.

15 (4) To ensure that Federal courts require only
16 that prison conditions do not constitute the unneces-
17 sary and wanton infliction of pain due to the delib-
18 erate indifference of institutional administrators
19 such that inmates are deprived of the minimum civ-
20 ilized measure of life's necessities. *Hudson v. McMil-*
21 *lan*, 117 L. Ed. 2d 156 (1992). *Wilson v. Seiter*,
22 115 L. Ed. 2d 271 (1991), *Whitley v. Albers*, 475
23 U.S. 312 (1986), and *Rhodes v. Chapman*, 452 U.S.
24 337 (1981). *Helling et al. v. McKinney*, (United

1 States Supreme Court, No. 91–1958, June 18,
2 1993).

3 (5) To require the exhaustion of administrative
4 remedies and accompanying State judicial review
5 prior to any Federal court challenge to conditions of
6 confinement of an institution such that States are
7 permitted a full and fair opportunity to remedy un-
8 constitutional conditions, policies, or practices.

9 (6) To protect sound principles of federalism by
10 requiring that before a condition at an institution be
11 declared unconstitutional, more than one Federal
12 judge be required to hear the claim presented, and
13 that no State condition will be enjoined before the
14 State has a fair opportunity to take remedial action.

15 (7) To ensure that the Federal Government is
16 permitted an opportunity to review inmate chal-
17 lenges to institutional conditions of confinement by
18 requiring the submission of a petition requesting ac-
19 tion pursuant to section 1997 of title 42, United
20 States Code to the Attorney General of the United
21 States.

22 (8) To limit the number of frivolous lawsuits
23 filed in Federal court by inmates.

1 **SEC. 103. AMENDING SECTION 1988 OF TITLE 42, UNITED**
2 **STATES CODE ET SEQ.**

3 Section 1988 of title 42, United States Code is
4 amended by adding paragraphs (d), (e), (f), (g), (h), (i),
5 (j), (k), and (l) as follows:

6 “(d) Notwithstanding the provisions of paragraph (a)
7 of this section, the Federal Rules of Civil Procedure, and
8 any other provision of law, any action challenging condi-
9 tions of confinement in an institution filed on behalf of
10 other inmates or as a class action must be brought by the
11 Attorney General unless the requirements of section
12 1997e(b) of this title have been met. Any action brought
13 by an inmate in an individual capacity shall have no collat-
14 eral estoppel effect other than as between the parties to
15 the action. Upon declination of the initial intervention re-
16 quest by the inmate, and if requested by a State, the At-
17 torney General may intervene on behalf of institutional ad-
18 ministrators.

19 “(e) Notwithstanding paragraph (b) of this section
20 the court shall not award attorney’s fees in any action
21 challenging conditions of confinement of an institution,
22 unless the litigation results in the issuance of an injunc-
23 tion under the conditions authorized in paragraph (j) or
24 unless the court awards attorney’s fees as a sanction for
25 filing a frivolous suit pursuant to paragraph (g).

1 “(f) In any litigation challenging conditions of con-
2 finement a court shall not grant any relief unless the con-
3 ditions challenged constitute the unnecessary and wanton
4 infliction of pain due to the deliberate indifference of insti-
5 tutional administrators such that inmates are deprived of
6 the minimum civilized measure of life’s necessities. If the
7 institution makes a per inmate expenditure equal to or ex-
8 ceeding the poverty guideline level there is a presumption
9 that institutional administrators are not deliberately indif-
10 ferent to the unnecessary and wanton infliction of pain
11 and the deprivation of the minimum civilized measure of
12 life’s necessities which may be rebutted only by clear and
13 convincing evidence to the contrary. Failure to make such
14 expenditures does not give rise to a presumption that the
15 conditions of confinement of an institution are unconstitu-
16 tional.

17 “(g) Every pleading, motion, and other paper of a
18 party represented by an attorney shall be signed by at
19 least one attorney of record in the attorney’s individual
20 name, whose address shall be stated. A party who is not
21 represented by an attorney shall sign the party’s pleading,
22 motion or other paper and state the party’s address. The
23 signature of an attorney or the party constitutes a certifi-
24 cation that the signer has carefully read the pleading, mo-

1 tion or other paper and, based on a reasonable inquiry,
2 believes all of the following:

3 “(1) It is well grounded in fact.

4 “(2) It is warranted by existing case law or
5 there is a good faith argument for the extension,
6 modification or reversal of existing law.

7 “(3) It is not interposed for any improper pur-
8 pose, such as to harass or to cause unnecessary
9 delay or needless increase in the cost of litigation.

10 If any pleading, motion or other paper is signed in viola-
11 tion of the certification provisions of this subsection, the
12 court, on its own motion or the motion of the other party
13 and after a hearing and appropriate findings of fact, shall
14 impose on the signer who verified it, a proper sanction
15 to deter this conduct in the future, which may include the
16 reasonable expenses incurred because of the filing of the
17 pleading, motion or other paper, including a reasonable
18 attorney’s fee.

19 “(h) Any action arising under section 1983 of this
20 title challenging the conditions of confinement of an insti-
21 tution shall be heard by a three judge district court
22 empaneled pursuant to section 28 of title 2284, United
23 States Code.

24 “(i) No Court of the United States empaneled pursu-
25 ant to section 28 of title 2284, United States Code may

1 issue an injunction in an action arising under section 1983
2 of title 42, United States Code challenging conditions of
3 confinement of an institution absent a showing of extraor-
4 dinary circumstances or unless institutional administra-
5 tors have failed, after a reasonable amount of time, to ad-
6 here to a written declaratory judgment issued pursuant
7 to section 2281 of title 28, United States Code finding
8 that a condition of confinement is unconstitutional.

9 “(j) Any injunctive relief granted under paragraph (i)
10 of this section shall be limited to the minimum relief nec-
11 essary to remedy any unconstitutional condition of con-
12 finement.

13 “(k) For purposes of this section, the following defini-
14 tions apply:

15 “(1) ‘Poverty guideline level’ means the dollar
16 allowance in the poverty guideline for additional
17 family members in the largest households, as estab-
18 lished by the United States Department of Health
19 and Human Services.

20 “(2) ‘Conditions of confinement’ means aspects
21 of confinement which include food, shelter, clothing,
22 medical care, goods, services, and programs of an in-
23 stitution, but excludes aspects relating to institu-
24 tional security.

1 “(3) ‘Institution’ means an institution as de-
2 fined in section 1997(1)(B)(ii) of title 42, United
3 States Code.

4 “(4) ‘Inmate’ means a person committed to the
5 custody of an institution.

6 “(5) ‘Per inmate expenditure’ means an institu-
7 tion’s allocated expenditure for providing food, shel-
8 ter, clothing, goods, services and programs, exclud-
9 ing costs specifically related to medical care and in-
10 stitutional security in the 12 month period preceding
11 the date of the alleged violation, divided by the aver-
12 age number of inmates confined in the institution
13 for the same 12 month period.

14 “(l)(1) Upon motion of a party at any time, a court
15 empaneled under section 1988(h) of this title may conduct
16 a hearing on whether an order or decree entered as a re-
17 sult of any action arising under section 1983 challenging
18 the constitutionality of conditions of confinement, should
19 be modified due to any of the following circumstances—

20 “(A) changed factual circumstances affecting
21 the operation of the order or decree, whether or not
22 foreseeable;

23 “(B) a change or clarification of the relevant
24 law, whether or not foreseeable;

1 “(C) a succession in office of an official respon-
2 sible for having consented to a decree;

3 “(D) the government’s financial constraints or
4 any other matter affecting public safety or the pub-
5 lic interest; and

6 “(E) any ground provided in rule 60(b) of the
7 Federal Rules of Civil Procedure.

8 “(2) The court shall conduct such a hearing if the
9 motion was filed more than one year after the date of the
10 order or the decree or one year after the date on which
11 the last modification hearing was conducted, whichever is
12 later.

13 “(3) If the court denies a motion to modify an order
14 or consent decree under subsection (a) of this section, the
15 court shall make a written finding that the relief provided
16 in the order or decree, as of the date of the decision, is
17 no greater than the minimum required to bring the condi-
18 tions of confinement into substantial compliance with the
19 United States Constitution.”.

20 **SEC. 104. AMENDING SECTION 1997a OF TITLE 42, UNITED**
21 **STATES CODE.**

22 Paragraph (a) of section 1997a of title 42, United
23 States Code is amended to provide as follows:

24 “(a) Whenever the Attorney General has reasonable
25 cause to believe that any State or political subdivision of

1 a State, official, employee, or agent thereof, or other per-
2 son acting on behalf of a State or political subdivision of
3 a State is subjecting persons residing in or confined to
4 an institution as defined in section 2 (42 U.S.C. 1997)
5 to egregious or flagrant conditions which deprive such per-
6 sons of any rights, privileges, or immunities secured or
7 protected by the Constitution or laws of the United States
8 causing such persons to suffer grievous harm, and that
9 such deprivation is pursuant to a pattern or practice of
10 resistance to the full enjoyment of such rights, privileges,
11 or immunities, the Attorney General, for or in the name
12 of the United States, may institute a civil action in any
13 appropriate United States district court against such
14 party for such equitable relief as may be appropriate to
15 insure the minimum corrective measures necessary to in-
16 sure the full enjoyment of such rights, privileges, or immu-
17 nities, except that such equitable relief shall be available
18 under this Act to persons residing in or confined to an
19 institution as defined in section 1997(1)(B)(ii) of title 42,
20 United States Code, only insofar as such persons are sub-
21 jected to conditions which deprive them of rights, privi-
22 leges or immunities secured or protected by the Constitu-
23 tion of the United States, and only to the extent permitted
24 as set forth in sections 1988(i) and (j) of title 42, United
25 States Code. Nothing in this section shall prohibit the At-

1 torney General from intervening on behalf of prison offi-
2 cials as set forth in section 1988(d) of title 42, United
3 States Code, as amended, if requested by the State.”.

4 (b) Notwithstanding section 1997(a) of title 42,
5 United States Code or section 1997c(a)(1). The Attorney
6 General shall not initiate or intervene on behalf of an in-
7 mate in an action alleging a violation of the eighth amend-
8 ment of the United States Constitution unless the Attor-
9 ney General finds reasonable cause to believe that such
10 persons are subjected to conditions which constitute the
11 unnecessary and wanton infliction of pain due to the delib-
12 erate indifference of institutional administrators such that
13 said persons are deprived of the minimum civilized meas-
14 ure of life’s necessities.

15 **SEC. 105. AMENDING PORTIONS OF SECTION 1997e OF**
16 **TITLE 42, UNITED STATES CODE.**

17 Paragraph (a) of section 1997e of title 42, United
18 States Code is amended to provide as follows:

19 “(a) APPLICABILITY OF ADMINISTRATIVE REM-
20 EDIES.—

21 “(1) In any action arising under section 1983
22 of this title which is filed by an inmate the court
23 shall require exhaustion of the administrative rem-
24 edies as described in this section.”.

1 (b) Any action arising under section 1983, brought
2 by an inmate alleging a violation of constitutional rights
3 relating to the conditions of confinement of an institution
4 may not be maintained unless the inmate has—

5 (1) exhausted any remedies available in the in-
6 stitution and the courts of the State, unless it ap-
7 pears that there is an absence of available state cor-
8 rective process or that circumstances exist which
9 render such process ineffective to protect the rights
10 of the inmate, and

11 (2) petitioned the Attorney General of the Unit-
12 ed States by registered mail to institute an action
13 for, or to intervene on behalf of the inmate and any
14 other prisoner similarly situated and the Attorney
15 General has not so intervened within 120 days of re-
16 ceipt of the petition or has declined, in writing, to
17 intervene,

18 after which the inmate may pursue his remedy.

19 (c) Notwithstanding any other statute or rule of civil
20 procedure, any action arising under section 1983 of title
21 42, United States Code, challenging conditions of confine-
22 ment in an institution, must state with particularity—

23 (1) the exhaustion of remedies or reasons ex-
24 haustion has not been pursued,

1 (2) any applicable decision of the Attorney Gen-
2 eral under subsection (a)(2)(ii) above,

3 (3) the specific constitutional right alleged to
4 have been violated and all specific facts supporting
5 the allegation,

6 (4) the specific nature of the condition of con-
7 finement and the manner in which the institutional
8 administrators have been deliberately indifferent to
9 the wanton and unnecessary infliction of pain such
10 that the inmate has been deprived of the minimum
11 civilized standard of life's necessities, or

12 (v) the relief requested.

13 (d) An inmate shall not be deemed to have exhausted
14 the remedies available in the courts of the State if he has
15 the right under the law of the State to raise, by any avail-
16 able procedure, the question presented.

17 (e) In any proceeding instituted in a Federal court
18 for relief alleging a violation of constitutional rights aris-
19 ing from conditions of confinement of an institution, a de-
20 termination after a hearing on the merits of a factual
21 issue, made by a State court of competent jurisdiction in
22 a proceeding to which the inmate and the State, or an
23 officer or agent thereof, were parties, evidenced by a writ-
24 ten finding, written opinion, or other reliable and adequate
25 written indicia, shall be presumed to be correct, unless the

1 inmate shall establish or it shall otherwise appear, or the
2 respondent shall admit—

3 (1) that the merits of the factual dispute were
4 not resolved in the State court hearing;

5 (2) that the fact finding procedure employed by
6 the State court was not adequate to afford a full
7 and fair hearing;

8 (3) that the material facts were not adequately
9 developed at the State court hearing;

10 (4) that the State court lacked jurisdiction over
11 the subject matter or over the inmate in the State
12 court proceeding;

13 (5) that the inmate did not receive a full, fair,
14 and adequate hearing in the State court proceeding;

15 (6) that the applicant was otherwise denied due
16 process of law in the State court proceeding; or

17 (7) unless that part of the record of the State
18 court proceeding in which the determination of such
19 factual issue was made, pertinent to a determination
20 of the sufficiency of the evidence to support such
21 factual determination and the Federal court on a
22 consideration of such part of the record as a whole
23 concludes that such factual determinations are not
24 fairly supported by the record;

1 And in an evidentiary hearing in the proceeding in the
2 Federal court, when due proof of such factual determina-
3 tion has been made, unless the existence of one or more
4 of the circumstances respectively set forth in paragraphs
5 (i)–(vi) inclusive is shown by the inmate, otherwise ap-
6 pears, or is admitted by the respondent, or unless the
7 court concludes pursuant to the provisions of paragraph
8 (vii) that the record in the State court proceeding, consid-
9 ered as a whole does not fairly support such factual deter-
10 mination, the burden shall rest upon the inmate to estab-
11 lish by convincing evidence that the factual determination
12 by the State court was erroneous.

13 (f) If the inmate challenges the sufficiency of the evi-
14 dence adduced in such State court proceeding to support
15 the State court’s determination of a factual issue made
16 therein, the inmate shall produce that part of the record
17 pertinent to a determination of the sufficiency of the evi-
18 dence to support such determination.

19 (g) A copy of the official records of the State court,
20 duly certified by the clerk of such court to be true and
21 correct copy of a finding, judicial opinion, or other reliable
22 indicia showing such a factual determination by the State
23 court shall be admissible in the Federal court proceeding.

1 **SEC. 106. DELETING CERTAIN PORTIONS OF SECTION 1994f**
2 **OF TITLE 42, UNITED STATES CODE.**

3 Subsections (b), (c), and (d) of section 1997e, title
4 42, United States Code are deleted.

5 **SEC. 107. ELIMINATING EARLY RELEASE OF PRISONERS—**
6 **SCOPE OF JUDICIAL OVERSIGHT.**

7 Section 4354 of title 18, United States Code, is
8 amended by adding at the end the following:

9 “(A) The following conditions shall not be
10 deemed ‘cruel and unusual punishment’ of pris-
11 oners—

12 “(1) the absence or failure to provide ac-
13 cess to cable TV or other entertainment to pris-
14 oners,

15 “(2) the absence or failure to provide ac-
16 cess to recreational facilities such as basketball
17 courts, gyms, or other areas,

18 “(3) the quality of food preparation, so
19 long as the appropriate medical official certifies
20 that the food and water meet minimal nutri-
21 tional standards to sustain life,

22 “(4) the number of prison officials in a fa-
23 cility or their training or qualifications,

24 “(5) placement of more than one prisoner
25 in a cell,

1 “(6) defects in the style, type or condition
2 of prison clothing,

3 “(7) age or conditions of the prison struc-
4 ture, so long as it remains structurally sound,
5 or

6 “(8) absence of any other luxury or amen-
7 ity.”.

8 **TITLE II—REPEAL OF THE BAN ON SEMI-**
9 **AUTOMATIC ASSAULT WEAPONS AND**
10 **THE BAN ON LARGE CAPACITY AMMU-**
11 **NITION FEEDING DEVICES**

12 **SEC. 201. SHORT TITLE.**

13 This Act may be cited as the “Restoration of Certain
14 Second Amendment Rights Act”.

15 **SEC. 202. REPEAL OF THE BAN ON SEMIAUTOMATIC AS-**
16 **SAULT WEAPONS AND THE BAN ON LARGE**
17 **CAPACITY AMMUNITION FEEDING DEVICES.**

18 (a) IN GENERAL.—Section 922 of title 18, United
19 States Code, is amended by striking subsections (v) and
20 (w) and by striking the appendix.

21 (b) CONFORMING AMENDMENTS AND REPEAL.—

22 (1) Section 921(a) of such title is amended by
23 striking paragraph (31).

24 (2) Section 924(a)(1)(B) of such title is amend-
25 ed by striking “(r), (v),”.

1 (3) Section 923(i) of such title is amended by
2 striking the last 2 sentences.

3 (4) Section 110104 of the Violent Crime Con-
4 trol and Law Enforcement Act of 1994 is hereby re-
5 pealed.

6 **TITLE III—ENHANCED GUN PENALTIES**

7 **SEC. 301. ENHANCED PENALTIES FOR PERSONS CON-**
8 **VICTED OF USING OR CARRYING A FIREARM**
9 **DURING AND IN RELATION TO A FELONY.**

10 (a) IN GENERAL.—Section 924(c) of title 18, United
11 States Code, is amended to read as follows:

12 “(c) Whoever, during and in relation to a crime that
13 is a felony (including a felony which provides for an en-
14 hanced punishment if committed by the use of a deadly
15 or dangerous weapon or device) for which he may be pros-
16 ecuted in a court of the United States, uses or carries a
17 firearm, shall, in addition to the punishment provided for
18 such crime, be sentenced to imprisonment for 5 years, and
19 if the firearm is a short-barreled rifle or short-barreled
20 shotgun, to imprisonment for 10 years, and if the firearm
21 is a machinegun or destructive device, or is equipped with
22 a firearm silencer or firearm muffler, to imprisonment for
23 30 years. In the case of the second or subsequent convic-
24 tion of the person under this subsection, the person shall
25 be sentenced to life imprisonment without release. Not-

1 withstanding any other provision of law, a term of impris-
 2 onment imposed under this subsection shall not run con-
 3 currently with any other term of imprisonment including
 4 that imposed for the crime in which the firearm was used
 5 or carried.”.

6 (b) CONFORMING AMENDMENT.—Section 101(a)(43)
 7 of the Immigration and Nationality Act (8 U.S.C.
 8 1101(a)(43)) is amended by inserting “(as in effect imme-
 9 diately before the enactment of the Gun Crime Control
 10 Act)” after “18” the first place such term appears.

11 **SEC. 302. MANDATORY MINIMUM SERVICE FOR UNLAWFUL**
 12 **POSSESSION OF A FIREARM BY CONVICTED**
 13 **FELON, FUGITIVE FROM JUSTICE, ADDICT OR**
 14 **UNLAWFUL USER OF CONTROLLED SUB-**
 15 **STANCE, OR TRANSFEROR OR RECEIVER OF**
 16 **STOLEN FIREARM.**

17 Section 924(a) of title 18, United States Code, is
 18 amended by adding at the end the following:

19 “(6) Whoever knowingly possesses a firearm in viola-
 20 tion of paragraph (1), (2), or (3) of section 922(g), or
 21 in violation of subsection (i) of (j), shall be imprisoned
 22 not less than 5 years. Notwithstanding any other provision
 23 of law, the court shall not place on probation or suspend
 24 the sentence of any person convicted under this para-
 25 graph, nor shall the term of imprisonment imposed under

1 this paragraph run concurrently with any other term of
2 imprisonment imposed under any other provision of law.”.

3 **SEC. 303. INCREASE IN GENERAL PENALTY FOR VIOLATION**
4 **OF FEDERAL FIREARMS LAWS.**

5 Section 924(a)(1) of title 18, United States Code, is
6 amended—

7 (1) by striking “not more than \$5,000” and in-
8 serting “under this title”; and

9 (2) by striking “five” and inserting “10”.

○

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